

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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INTELLECTUAL PROPERTY LAW
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FACSIMILE COVER SHEET

Deliver to: Johnson III, Henry M., USPTO Art Group: 3739Facsimile No.: (571) 273-8300 Date: October 14, 2005From: William Thomas Babbitt, Reg. No. 39,591Our Docket No.: 4131P005C2 Number of pages 15 including this sheet.Application No.: 10/718,272 Filing Date: 11/18/2003Docket Due Date(s): 10/9/2005 | 11/9/2005

Enclosed are the following documents:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Amendment: <u>After Final</u> (<u>11</u> pgs) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Appeal Brief (<u> </u> pgs) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Application: _____

(<u> </u> pgs) w/cover & abstract) | <input type="checkbox"/> Petition for: _____ |
| <input type="checkbox"/> Assignment & Cover Sheet (<u> </u> pgs) | <input type="checkbox"/> Request for Continued Examination (RCE) |
| <input checked="" type="checkbox"/> Certificate of <u>Facsimile</u> | <input type="checkbox"/> Reply Brief (<u> </u> pgs) |
| <input type="checkbox"/> Continued Prosecution Application (CPA) | <input type="checkbox"/> Request & Certification Under 35 USC 122(b)(2)(B)(i) |
| <input type="checkbox"/> Declaration & POA (<u> </u> pgs) | <input type="checkbox"/> Request to Rescind Previous Nonpublication Request |
| <input type="checkbox"/> Drawings: <u> </u> sheets, <u> </u> figures | <input type="checkbox"/> Response to Notice of Missing Parts & Formalities Letter |
| <input type="checkbox"/> Extension of Time: _____ | <input type="checkbox"/> Response to Written Opinion (<u> </u> pgs) |
| <input checked="" type="checkbox"/> Fee Transmittal (in duplicate) | <input checked="" type="checkbox"/> Terminal Disclaimer |
| <input type="checkbox"/> IDS & PTO/SB/08 (<u> </u> pgs) | <input type="checkbox"/> Transmittal of Publication Fee Due |
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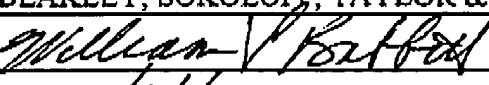
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OCT 14 2005

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application No.	10/718,272
		Filing Date	November 18, 2003
		First Named Inventor	Jeffrey W. Baxter
		Art Unit	3739
		Examiner Name	Johnson III, Henry M.
Total Number of Pages in This Submission	14	Attorney Docket Number	4131P005C2

ENCLOSURES (check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):		
			Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	William Thomas Babbitt, Reg. No. 39,591 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	10/14/05

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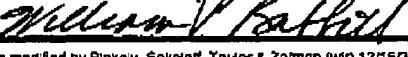
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Oct-14-05 04:27pm From-B S T Z

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FEE TRANSMITTAL for FY 2005		Complete if Known																																																																																																																								
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METHOD OF PAYMENT (check all that apply) <p> <input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input checked="" type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____ </p> <p> <input checked="" type="checkbox"/> Deposit Account Deposit Account Number: <u>02-2666</u> Deposit Account Name: <u>Blakely, Sokoloff, Taylor & Zafman LLP</u> </p> <p>For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)</p> <p> <input type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) <input checked="" type="checkbox"/> Credit any overpayments under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20. </p>																																																																																																																										
FEE CALCULATION <p>1. EXTRA CLAIM FEES</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <th>Total Claims</th> <th>43</th> <th>Extra Claims</th> <th>Fee from below</th> <th>Fee Paid</th> </tr> <tr> <td>Independent Claims</td> <td>5</td> <td>43 - 5 = 0</td> <td>0 x 50.00 = \$0.00</td> <td></td> </tr> <tr> <td>Multiple Dependent</td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th>Large Entity</th> <th>Small Entity</th> <th></th> </tr> <tr> <th>Fee Code (\$)</th> <th>Fee Code (\$)</th> <th>Fee Description</th> </tr> </thead> <tbody> <tr> <td>1202 60</td> <td>2202 25</td> <td>Claims in excess of 20</td> </tr> <tr> <td>1201 200</td> <td>2201 100</td> <td>Independent claims in excess of 3</td> </tr> <tr> <td>1203 300</td> <td>2203 180</td> <td>Multiple Dependent claim, if not paid</td> </tr> <tr> <td>1204 300</td> <td>2204 150</td> <td>"Reissue Independent claims over original patent</td> </tr> <tr> <td>1205 300</td> <td>2205 150</td> <td>"Reissue claims in excess of 20 and over original patent</td> </tr> <tr> <td colspan="2" style="text-align: right;">SUBTOTAL (1) (\$)</td> <td style="text-align: right;">0.00</td> </tr> </tbody> </table> <p style="text-align: right; font-size: small;">*or number previously paid, if greater. For Reissues, see below</p> <p>2. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th>Large Entity</th> <th>Small Entity</th> <th></th> <th>Fee Paid</th> </tr> <tr> <th>Fee Code (\$)</th> <th>Fee Code (\$)</th> <th>Fee Description</th> <th></th> </tr> </thead> <tbody> <tr> <td>1051 130</td> <td>2051 65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>1052 50</td> <td>2052 25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>2053 130</td> <td>2053 130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1251 120</td> <td>2251 60</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252 450</td> <td>2252 225</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253 1,020</td> <td>2253 510</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254 1,590</td> <td>2254 795</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255 2,180</td> <td>2255 1,080</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401 600</td> <td>2401 250</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402 500</td> <td>2402 250</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>1403 1,000</td> <td>2403 500</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451 1,510</td> <td>2451 1,510</td> <td>Petition to Institute a public use proceeding</td> <td></td> </tr> <tr> <td>1450 130</td> <td>2450 130</td> <td>Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>1907 50</td> <td>1907 50</td> <td>Processing fee under 37 CFR 1.17(q)</td> <td></td> </tr> <tr> <td>1908 190</td> <td>1908 180</td> <td>Submission of Information Disclosure Stmt</td> <td></td> </tr> <tr> <td>1909 700</td> <td>1909 365</td> <td>Filing a submission after final rejection (37 CFR § 1.129(a))</td> <td></td> </tr> <tr> <td>1910 790</td> <td>2010 395</td> <td>For each additional invention to be examined (37 CFR § 1.129(b))</td> <td></td> </tr> <tr> <td colspan="2" style="text-align: right;">Other fee (specify) _____</td> <td style="text-align: right;">SUBTOTAL (2) (\$)</td> <td></td> </tr> </tbody> </table>				Total Claims	43	Extra Claims	Fee from below	Fee Paid	Independent Claims	5	43 - 5 = 0	0 x 50.00 = \$0.00		Multiple Dependent					Large Entity	Small Entity		Fee Code (\$)	Fee Code (\$)	Fee Description	1202 60	2202 25	Claims in excess of 20	1201 200	2201 100	Independent claims in excess of 3	1203 300	2203 180	Multiple Dependent claim, if not paid	1204 300	2204 150	"Reissue Independent claims over original patent	1205 300	2205 150	"Reissue claims in excess of 20 and over original patent	SUBTOTAL (1) (\$)		0.00	Large Entity	Small Entity		Fee Paid	Fee Code (\$)	Fee Code (\$)	Fee Description		1051 130	2051 65	Surcharge - late filing fee or oath		1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet		2053 130	2053 130	Non-English specification		1251 120	2251 60	Extension for reply within first month		1252 450	2252 225	Extension for reply within second month		1253 1,020	2253 510	Extension for reply within third month		1254 1,590	2254 795	Extension for reply within fourth month		1255 2,180	2255 1,080	Extension for reply within fifth month		1401 600	2401 250	Notice of Appeal		1402 500	2402 250	Filing a brief in support of an appeal		1403 1,000	2403 500	Request for oral hearing		1451 1,510	2451 1,510	Petition to Institute a public use proceeding		1450 130	2450 130	Petitions to the Commissioner		1907 50	1907 50	Processing fee under 37 CFR 1.17(q)		1908 190	1908 180	Submission of Information Disclosure Stmt		1909 700	1909 365	Filing a submission after final rejection (37 CFR § 1.129(a))		1910 790	2010 395	For each additional invention to be examined (37 CFR § 1.129(b))		Other fee (specify) _____		SUBTOTAL (2) (\$)	
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SUBMITTED BY						Complete (if applicable)	
Name (Print/Type)	William Thomas Babbitt	Registration No. (Attorney/Agent)	39,591	Telephone	(310) 207-3800		
Signature				Date	10/14/05		

Based on PTO/SB/17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (W) 12/15/2004.
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FEE TRANSMITTAL for FY 2005		Complete if Known						
Patent fees are subject to annual revision.		Application Number	10/718,272					
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.		Filing Date	November 18, 2003					
TOTAL AMOUNT OF PAYMENT (\$)		First Named Inventor	Jeffrey W. Baxter					
0.00		Examiner Name	Johnson III, Henry M.					
		Art Unit	3739					
		Attorney Docket No.	4131P005C2					
METHOD OF PAYMENT (check all that apply)								
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input checked="" type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____								
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP								
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)								
<input type="checkbox"/> Charge fee(s) indicated below		<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee						
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FEES CALCULATION								
1. EXTRA CLAIM FEES								
Total Claims	43	- 43 ^a =	<table border="1"><tr><td>0</td><td>x</td><td>50.00</td><td>=</td><td>\$0.00</td></tr></table>	0	x	50.00	=	\$0.00
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Large Entity	Small Entity							
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1202	.50	2202	.25	Claims in excess of 20				
1201	200	2201	100	Independent claims in excess of 3				
1203	360	2203	180	Multiple Dependent claim, if not paid				
1204	300	2204	150	"Release independent claims over original patent				
1205	300	2205	150	"Release claims in excess of 20 and over original patent				
SUBTOTAL (1)		(\$)		0.00				
				^a or number previously paid, if greater. For Reissues, see below				
2. ADDITIONAL FEES								
Large Entity	Small Entity			Fee Paid				
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description				
1051	130	2051	.65	Surcharge - late filing fee or claim				
1052	.50	2052	.25	Surcharge - late provisional filing fee or cover sheet.				
2053	130	2053	130	Non-English specification				
1251	130	2251	.60	Extension for reply within first month				
1252	460	2252	225	Extension for reply within second month				
1253	1,020	2253	610	Extension for reply within third month				
1254	1,390	2254	785	Extension for reply within fourth month				
1255	2,160	2255	1,080	Extension for reply within fifth month				
1401	500	2401	250	Notice of Appeal				
1402	500	2402	250	Filing a brief in support of an appeal				
1403	1,000	2403	500	Request for oral hearing				
1451	1,510	2451	1,510	Petition to Institute a public use proceeding				
1480	130	2450	130	Petitions to the Commissioner				
1807	.50	1807	.60	Processing fee under 37 CFR 1.17(q)				
1806	180	1806	180	Submission of Information Disclosure Stmt				
1808	790	1809	395	Filing a submission after final rejection (37 CFR § 1.125(a))				
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.128(b))				
Other fee (specify)		SUBTOTAL (2)		(\$)				

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	William Thomas Babbitt	Registration No. (Attorney/Agent)	39,591	Telephone	(310) 207-3800
Signature	William T. Babbitt			Date	10/14/05

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EXPEDITED PROCEDURE
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BSTZ No. 00431.P005C2
Guidant No. R0037C2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jeffrey W. Baxter, et al.

Application No. 10/718,272

Filed: 11/18/2003

For: APPARATUS AND METHOD FOR MINIMALLY
INVASIVE SURGERY USING ROTATIONAL
CUTTING TOOL

Examiner: Johnson III, Henry M.

Art Unit 3739

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the final Office Action mailed August 9, 2005, Applicants respectfully request entry of the following amendment.